

employees in the performance of their duties or is required by the Freedom of Information Act (5 U.S.C. 552), in conformance with section 552a(c) of the Privacy Act.

(2) The accounting shall be maintained for at least five (5) years or the life of the record, whichever is longer.

(3) The accounting shall be made available to the individual named in the record upon inquiry, except for disclosures made pursuant to provision paragraph (b)(2)(viii) of this section relating to law enforcement activities.

§ 2400.5 Notification.

(a) *Notification of systems.* The following procedures permit individuals to determine the types of personal records systems maintained by OSHRC.

(1) Upon written request, OSHRC shall notify any individual whether a specific system named by him contains a record pertaining to him. See § 2400.6 for suggested form of request.

(2) OSHRC shall publish annually in the FEDERAL REGISTER a notice of existence and character of all personal systems of records. This notice shall contain the following information:

- (i) Name and location of the system,
- (ii) Nature and purposes of the system,
- (iii) Categories of individuals on whom records are maintained and categories of records generally maintained in the system,
- (iv) Confidentiality requirements and the extent to which access controls apply to such information,
- (v) OSHRC policies and standards regarding the safeguarding and disclosure of information, retrievability of information, information storage, duration of retention of information, and disposal of such information from the system,
- (vi) Each routine use made by OSHRC of the personal information contained in the system, including the categories of users and the purpose of the use,
- (vii) Title and official address of the custodian,
- (viii) Procedures by which an individual can be informed if a system contains personal information pertaining to himself, gain access to such information, and contest the content, accu-

racy, completeness, timeliness, relevance and necessity for retention of the information,

(ix) Categories of sources of such personal information,

(x) System status—either developmental or operational.

(b) *Notification of disclosure.* OSHRC shall make reasonable efforts to serve notice on an individual before any personal information is made available to any person under compulsory legal process when such process becomes a matter of public record.

(Also see § 2400.4(b)(1)(ii) and (2)(vii).)

(c) *Notification of amendment.* (See § 2400.7 relating to amendment of records upon request.)

(d) *Notification of new use.* Any new or revised use of personal information maintained by OSHRC shall be published in the FEDERAL REGISTER thirty (30) days before such use becomes operational. Public views may then be submitted to the Executive Director.

(e) *Notification of exemptions.* OSHRC shall publish in the FEDERAL REGISTER its intent to exempt any system of records and shall specify the nature and purpose of that system.

§ 2400.6 Procedures for requesting records.

The purpose of this section is to provide procedures by which an individual may have access to personal information within a comprehensive format.

(a) *Submission of requests for access—*
(1) *Manner.* An individual seeking information regarding the contents of records systems or access to records about himself in a system of records should present a written request to that effect either in person or by mail to the Executive Director, OSHRC, One Lafayette Centre, 1120-20th Street NW., 9th Floor, Washington, DC 20036-3419. Access to OSHRC records maintained in National Archives and Records Service Centers may be obtained in accordance with the regulations issued by the General Services Administration.

(2) *Specification of records sought.* Requests for access to records shall describe the nature of the record sought, the approximate dates covered by the record, and the system in which the record is thought to be included as described in the "Notification" for that

system as published in the FEDERAL REGISTER. The requester should also indicate whether he wishes to review the record in person or obtain a copy by mail. If the information supplied is insufficient to locate or identify the record, the requester shall be notified promptly and, if necessary, informed of additional information required. Upon request, OSHRC also shall disclose to the individual an accounting of any disclosures made from the individual's record.

(3) *Period for response.* Upon receipt of an inquiry the Executive Director shall respond promptly to the request and no later than 10 days from receipt of such inquiry.

(b) *Verification of identity.* The following standards are applicable to any individual who requests records concerning himself.

(1) An individual seeking access to records about himself in person may establish his identity by the presentation of a single document bearing a photograph (such as a passport, employee identification card, or valid driver's license) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and address (such as a valid driver's license, or credit card).

(2) An individual seeking access to records about himself by mail shall establish his identity by a signature, address, date of birth, place of birth, employee identification number, if any, and one other identifier such as a photocopy of an identifying document.

(3) An individual seeking access to records about himself by mail or in person who cannot provide the necessary documentation of identification may provide a notarized statement swearing or affirming to his identity and to the fact that he understands the penalties for false statements pursuant to 18 U.S.C. 1001. Forms for such notarized statements may be obtained on request from the Executive Director.

(c) *Verification of guardianship.* The parent or guardian of a minor or a person judicially determined to be incompetent and seeking to act on behalf of such minor or incompetent shall, in addition to establishing his own identity, establish the identity of the minor or other person he represents as required

in paragraph (b) of this section and establish his own parentage or guardianship of the subject of the record by furnishing either a copy of a birth certificate showing parentage or a court order establishing the guardianship.

(d) *Accompanying persons.* An individual seeking to review records about himself may be accompanied by another individual of his own choosing. Both the individual seeking access and the individual accompanying him shall be required to sign the required form indicating that OSHRC is authorized to discuss the contents of the subject record in the presence of both individuals.

(e) *Special rules for medical records.* Medical records shall be disclosed to the requester to whom they pertain unless the Executive Director, in consultation with a medical doctor named by the requesting individual, determines that access to such record could have an adverse effect upon such individual. In such a case, the Executive Director shall transmit such information to the named medical doctor.

(f) *When compliance is possible.* (1) The Executive Director shall inform the requester of the determination to grant the request and shall make the record available to the individual in the manner requested, that is, either by forwarding a copy of the information to him or by making it available for review, unless:

(i) It is impracticable to provide the requester with a copy of a record, in which case the requester shall be so notified, and, in addition, be informed of the procedures set forth in paragraph (b)(2) of this section, or

(ii) The responsible official has reason to believe that the cost of a copy of a record is considerably more expensive than anticipated by the requester, in which case he shall notify the requester of the estimated cost, and ascertain whether the requester still wishes to be provided with a copy of the information.

(2) Where a record is to be reviewed by the requester in person, the disclosure officer shall inform the requester in writing of:

(i) The date on which the record shall become available for review, the location at which it may be reviewed, and the hours for inspection;

(ii) The type of identification that shall be required in order for him to review the record;

(iii) Such person's right to have a person of his own choosing accompany him to review the record; and

(iv) Such person's right to have a person other than himself review the record.

(3) If the requester seeks to inspect the record without receiving a copy, he shall not leave OSHRC premises with the record and shall sign a statement indicating he has reviewed a specific record or category of record.

(g) Response when compliance is not possible. A reply denying a written request to review a record shall be in writing signed by the Executive Director or other appropriate official and shall be made only if such a record does not exist or does not contain personal information relating to the requester, or is exempt. This reply shall include a statement regarding the determining factors of denial, and the right to obtain judicial review in a district court of the United States.

[44 FR 3968, Jan. 19, 1979, as amended at 58 FR 26066, Apr. 30, 1993]

§ 2400.7 Procedures for requesting amendment.

(a) *Submission of requests for amendment.* Upon review of an individual's personal record, that individual may submit a request to amend such record. This request shall be submitted in writing to the Executive Director and shall include a statement of the amendment requested and the reasons therefor, e.g., relevance, accuracy, timeliness or completeness of the record.

(b) *Action to be taken by the Executive Director.* Upon receiving an amendment request, he or she shall promptly:

(1) Acknowledge in writing within ten (10) working days the receipt of the request.

(2) Make such inquiry as is necessary to determine whether the amendment is appropriate, and

(3) Correct or eliminate any information that is found to be incomplete, in-

accurate, not relevant to a statutory purpose of OSHRC, or not timely and notify the requester when this action is complete, or

(4) Notify the requester of a determination not to amend and of the individual's right to appeal not later than thirty (30) working days after receipt of a request to amend.

(c) *Appeal procedure.* (1) If a request to inspect, copy or amend a record is denied, in whole or in part, or if no determination is made within the period prescribed by this part, the requester may appeal to the Chairman, OSHRC, One Lafayette Centre, 1120-20th Street NW., 9th Floor, Washington, DC 20036-3419.

(2) The requester shall submit his appeal in writing within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure of the Executive Director to make a determination. The letter of appeal should include, as applicable:

(i) Reasonable identification of the record to which access was sought or the amendment of which was requested.

(ii) A statement of the OSHRC action or failure to act being appealed and the relief sought.

(iii) A copy of the request, the notification of denial and of any other related correspondence.

(3) The Chairman shall make his final determination not later than thirty (30) days from the date of the request, unless he extends the time for good cause to be shown by him but not to exceed ninety (90) days from the date of the request. Any record found on appeal to be not complete, accurate, relevant, or timely, shall within thirty (30) working days of the date of such findings be appropriately amended.

(4) The decision of the Chairman constitutes the final decision of OSHRC on the right of the requester to inspect, copy, change or update a record. The decision on the appeal shall be in writing and, in the event of a denial, shall set forth the reasons for such denial and state the individual's right to obtain judicial review in a district court. An indexed file of the agency decisions on appeal shall be maintained by the Executive Director.